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UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

CRYSTAL REDICK, individually and on behalf all others similarly situated.

Plaintiff,

V.

TUMI, INC., a New Jersey corporation; and DOES 1 to 10, inclusive.

Defendant.

CASE No.:

## **CLASS ACTION COMPLAINT**

1. VIOLATIONS OF THE  
AMERICANS WITH  
DISABILITIES ACT OF 1990, 42  
U.S.C. § 12181
2. VIOLATIONS OF THE UNRUH  
CIVIL RIGHTS ACT  
**DEMAND FOR JURY TRIAL**

Plaintiff Crystal Redick (“Plaintiff”), individually and on behalf of all others similarly situated, brings this action based upon her personal knowledge as to herself and her own acts, and as to all other matters upon information and belief, based upon, *inter alia*, the investigations of her attorneys.

## **NATURE OF THE ACTION**

1. Plaintiff is a visually impaired and legally blind person who requires screen reading software to read website content using her computer. Plaintiff uses the terms "blind" or "visually impaired" to refer to all people with visual

1 impairments who meet the legal definition of blindness in that they have a visual  
2 acuity with correction of less than or equal to 20 x 200. Some blind people who  
3 meet this definition have limited vision. Others have no vision.

4       2. Plaintiff, individually and on behalf of those similarly situated persons  
5 (hereafter “Class Members”), brings this Class Action to secure redress against  
6 Tumi, Inc. (“Defendant”), and DOES 1-10, for its failure to design, construct,  
7 maintain, and operate its website to be fully and equally accessible to and  
8 independently usable by Plaintiff and other blind or visually impaired people.  
9 Defendant’s denial of full and equal access to its website, and therefore denial of its  
10 products and services offered thereby and in conjunction with its physical locations,  
11 is a violation of Plaintiff’s rights under the Americans with Disabilities Act  
12 (“ADA”) and California’s Unruh Civil Rights Act (“UCRA”).

13       3.     Because Defendant's website, <https://www.tumi.com/> the ("Website")  
14 or ("Defendant's website"), is not fully or equally accessible to blind and visually  
15 impaired consumers in violation of the ADA, Plaintiff seeks a permanent injunction  
16 to cause a change in Defendant's corporate policies, practices, and procedures so  
17 that Defendant's website will become and remain accessible to blind and visually  
18 impaired consumers.

## THE PARTIES

20       4. Plaintiff, at all times relevant and as alleged herein, is a resident of  
21 California, County of Los Angeles. Plaintiff is a legally blind, visually impaired,  
22 handicapped person, and a member of a protected class of individuals under the  
23 ADA, pursuant to 42 U.S.C. § 12102(1)-(2), and the regulations implementing the  
24 ADA set forth at 28 CFR §§ 36.101 *et seq.*

25        5.      Defendant is a New Jersey corporation with its headquarters in Edison,  
26 New Jersey.   Defendant's servers for the website are in the United States.  
27 Defendant conducts a large amount of its business in California.   Defendant's stores  
28 constitute places of public accommodation.   Defendant's stores provide to the

1 public important goods and services. Defendant's website provides consumers  
2 access to "TUMI's innovative introduction of soft, ultra-functional, black-on-black  
3 ballistic nylon travel bags" which are available for purchase online and at the  
4 physical locations. Consumers can additionally access information regarding store  
5 locations, best sellers, special collections, new arrivals, personalization shop,  
6 featured items, philanthropy opportunities, product information and warranty, sale  
7 items, gift ideas, gift cards, career opportunities, shipping and returns, payment  
8 methods, service and repairs, replacement parts, email subscriptions, corporate gifts  
9 and incentives, order tracking, airline carry-on guide, setting your TUMI lock, and  
10 Defendant's social media pages.

11       6. Plaintiff is unaware of the true names, identities, and capacities of the  
12 Defendants sued herein as DOES 1 to 10. Plaintiff will seek leave to amend this  
13 complaint to allege the true names and capacities of DOES 1 to 10 if and when  
14 ascertained. Plaintiff is informed and believes, and thereupon alleges, that each of  
15 the Defendants sued herein as a DOE is legally responsible in some manner for the  
16 events and happenings alleged herein and that each Defendant sued herein as a DOE  
17 proximately caused injuries and damages to Plaintiff as set forth below.

18       7.    Defendant's stores are public accommodations within the definition of  
19 Title III of the ADA, 42 U.S.C. § 12181(7).

20       8.     The website <https://www.tumi.com/>, is a service, privilege, or  
21 advantage of Defendant's goods, services, and location.

## JURISDICTION AND VENUE

23       9.     This Court has subject matter jurisdiction over the state law claims  
24     alleged in Complaint pursuant to the Class Action Fairness Act, 28 U.S.C. §  
25     1332(d)(2)(A) because: (a) the matter in controversy exceeds the sum of \$5 million,  
26     exclusive of interest and costs; and (b) some of the class members are citizens of a  
27     state (California) which is different from the state of citizenship of Defendant (New  
28     Jersey).

1       10. Defendant is subject to personal jurisdiction in this District. Defendant  
2 has been and is committing the acts or omissions alleged herein in the Central  
3 District of California that caused injury, and violated rights prescribed by the ADA  
4 and UCRA, to Plaintiff and to other blind and other visually impaired consumers.  
5 A substantial part of the acts and omissions giving rise to Plaintiff's claims occurred  
6 in the Central District of California. Specifically, on several separate occasions,  
7 Plaintiff has been denied the full use and enjoyment of the facilities, goods, and  
8 services of Defendant's website in Los Angeles County. The access barriers  
9 Plaintiff has encountered on Defendant's website have caused a denial of Plaintiff's  
10 full and equal access multiple times in the past, and now deter Plaintiff on a regular  
11 basis from accessing Defendant's website. Similarly, the access barriers Plaintiff  
12 has encountered on Defendant's website have impeded Plaintiff's full and equal  
13 enjoyment of the goods and services offered at Defendant's brick-and-mortar  
14 stores.

15       11. This Court also has subject matter jurisdiction over this action pursuant  
16 to 28 U.S.C. § 1331 and 42 U.S.C. § 12181, as Plaintiff's claims arise under Title  
17 III of the ADA, 42 U.S.C. § 12181, *et seq.*, and 28 U.S.C. § 1332.

18       12. This Court has personal jurisdiction over Defendant because it  
19 conducts and continues to conduct a substantial and significant amount of business  
20 in the State of California, Los Angeles County, and because Defendant's offending  
21 website is available across California.

22       13. Venue is proper in the Central District of California pursuant to 28  
23 U.S.C. § 1391 because Plaintiff resides in this District, Defendant conducts and  
24 continues to conduct a substantial and significant amount of business in this District,  
25 Defendant is subject to personal jurisdiction in this District, and a substantial  
26 portion of the conduct complained of herein occurred in this District.

27       ///

28       ///

## 1 THE AMERICANS WITH DISABILITIES ACT AND THE INTERNET

2 14. The Internet has become a significant source of information, a portal,  
3 and a tool for conducting business, doing everyday activities such as shopping,  
4 learning, banking, researching, as well as many other activities for sighted, blind  
5 and visually impaired persons alike.

6 15. In today's tech-savvy world, blind and visually impaired people have  
7 the ability to access websites using keyboards in conjunction with screen access  
8 software that vocalizes the visual information found on a computer screen. This  
9 technology is known as screen reading software. Screen reading software is  
10 currently the only method a blind or visually impaired person may use to  
11 independently access the internet. Unless websites are designed to be read by  
12 screen reading software, blind and visually impaired persons are unable to fully  
13 access websites, and the information, products, and services contained thereon.

14 16. Blind and visually impaired users of Windows operating system-  
15 enabled computers and devices have several screen reading software programs  
16 available to them. Some of these programs are available for purchase and other  
17 programs are available without the user having to purchase the program separately.  
18 Job Access With Speech, otherwise known as "JAWS," is currently the most  
19 popular, separately purchased and downloaded screen reading software program  
20 available for a Windows computer.

21 17. For screen reading software to function, the information on a website  
22 must be capable of being rendered into text. If the website content is not capable  
23 of being rendered into text, the blind or visually impaired user is unable to access  
24 the same content available to sighted users.

25 18. The international website standards organization, the World Wide  
26 Web Consortium, known throughout the world as W3C, has published Success  
27 Criteria for version 2.1 of the Web Content Accessibility Guidelines ("WCAG 2.1"  
28 hereinafter). WCAG 2.1 are well-established guidelines for making websites

1 accessible to blind and visually impaired people. These guidelines are adopted,  
 2 implemented, and followed by most large business entities who want to ensure their  
 3 websites are accessible to users of screen reading software programs. Though  
 4 WCAG 2.1 has not been formally adopted as the standard for making websites  
 5 accessible, it is one of, if not the most, valuable resource for companies to operate,  
 6 maintain, and provide a website that is accessible under the ADA to the public.

7       19. Within this context, the Ninth Circuit has recognized the viability of  
 8 ADA claims against commercial website owners/operators with regard to the  
 9 accessibility of such websites. *Robles v. Domino's Pizza, LLC*, Docket No. 17-  
 10 55504 (9th Cir. Apr 13, 2017), Court Docket No. BL-66. This is in addition to the  
 11 numerous courts that have already recognized such application.

12       20. Each of Defendant's violations of the Americans with Disabilities Act  
 13 is likewise a violation of the Unruh Civil Rights Act. Indeed, the Unruh Civil Rights  
 14 Act provides that any violation of the ADA constitutes a violation of the Unruh  
 15 Civil Rights Act. Cal. Civ. Code, § 51(f).

16       21. Further, Defendant's actions and inactions denied Plaintiff full and  
 17 equal access to their accommodations, facilities, and services. A substantial  
 18 motivating reason for Defendant to deny Plaintiff access was the perception of  
 19 Plaintiff's disability. Defendant's denial of Plaintiff's accessibility was a  
 20 substantial motivating reason for Defendant's conduct. Plaintiff was harmed due  
 21 to Defendant's conduct. Defendant's actions and inactions were a substantial factor  
 22 in causing the lack of access to Plaintiff. Unruh Civil Rights Act. Cal. Civ. Code,  
 23 § 51.

24       22. Inaccessible or otherwise non-compliant websites pose significant  
 25 access barriers to blind and visually impaired persons. Common barriers  
 26 encountered by blind and visually impaired persons include, but are not limited to,  
 27 the following:

28           a. A text equivalent for every non-text element is not provided;

- 1 b. Title frames with text are not provided for identification and
- 2 navigation;
- 3 c. Equivalent text is not provided when using scripts;
- 4 d. Forms with the same information and functionality as for sighted
- 5 persons are not provided;
- 6 e. Information about the meaning and structure of content is not
- 7 conveyed by more than the visual presentation of content;
- 8 f. Text cannot be resized without assistive technology up to 200
- 9 percent without loss of content or functionality;
- 10 g. If the content enforces a time limit, the user is not able to extend,
- 11 adjust or disable it;
- 12 h. Web pages do not have titles that describe the topic or purpose;
- 13 i. The purpose of each link cannot be determined from the link text
- 14 alone or from the link text and its programmatically determined link
- 15 context;
- 16 j. One or more keyboard operable user interface lacks a mode of
- 17 operation where the keyboard focus indicator is discernible;
- 18 k. The default human language of each web page cannot be
- 19 programmatically determined;
- 20 l. When a component receives focus, it may initiate a change in
- 21 context;
- 22 m. Changing the setting of a user interface component may
- 23 automatically cause a change of context where the user has not been
- 24 advised before using the component;
- 25 n. Labels or instructions are not provided when content requires user
- 26 input;
- 27 o. In content which is implemented by using markup languages,
- 28 elements do not have complete start and end tags, elements are not

1 nested according to their specifications, elements may contain  
2 duplicate attributes and/or any IDs are not unique;  
3 p. Inaccessible Portable Document Format (PDFs); and  
4 q. The name and role of all User Interface elements cannot be  
5 programmatically determined; items that can be set by the user  
6 cannot be programmatically set; and/or notification of changes to  
7 these items are not available to user agents, including assistive  
8 technology.

## 9 FACTUAL BACKGROUND

10 23. Defendant offers the <https://www.tumi.com/> website to the public.  
11 The website offers features which should allow all consumers to access the goods  
12 and services which Defendant offers in connection with its physical location. The  
13 goods and services offered by Defendant include, but are not limited to, the  
14 following: an assortment of TUMI's durable, high-quality, modern pieces  
15 including carry-on luggage, wheeled duffels, garment bags, travel backpacks,  
16 laptop backpacks, leather backpacks, briefcases, duffels, satchels, crossbodies,  
17 slings, waist packs, totes, and more; accessories including wallets, card cases,  
18 passport cases and covers, travel essentials, mobile accessories, electronics, key  
19 fobs, eyewear, outerwear, and belts, which are available to purchase online and at  
20 physical locations. Consumers can further access information regarding access  
21 information regarding store locations, best sellers, collections, new arrivals,  
22 personalization shop, featured items, sales, philanthropy opportunities, product  
23 information and warranty, gift ideas, gift cards, career opportunities, shipping and  
24 returns, payment methods, service and repairs, replacement parts, email  
25 subscriptions, corporate gifts and incentives, order tracking, airline carry-on guide,  
26 setting your TUMI lock, and Defendant's social media pages.

27 24. Based on information and belief, it is Defendant's policy and practice  
28 to deny Plaintiff and Class Members, along with other blind or visually impaired

1 users, access to Defendant's website, and to therefore, specifically deny the goods  
 2 and services that are offered and integrated within Defendant's stores. Due to  
 3 Defendant's failure and refusal to remove access barriers on its website, Plaintiff  
 4 and other visually impaired persons have been and are still being denied equal and  
 5 full access to Defendant's stores, goods, and services offered to the public through  
 6 Defendant's Website.

7 **DEFENDANT'S BARRIERS ON UNRUH CIVIL RIGHTS ACT. CAL. CIV.  
 8 CODE, § 51(f) DENY PLAINTIFF AND CLASS MEMBERS ACCESS**

9 25. Plaintiff is a visually impaired and legally blind person, who cannot  
 10 use a computer without the assistance of screen reading software. However,  
 11 Plaintiff is a proficient user of the JAWS or NV Access screen-reader(s) as well as  
 12 Mac's VoiceOver and uses it to access the internet. Plaintiff has visited  
 13 <https://www.tumi.com/> on several separate occasions using the JAWS and/or  
 14 VoiceOver screen-readers.

15 26. During Plaintiff's numerous visits to Defendant's website, Plaintiff  
 16 encountered multiple access barriers which denied Plaintiff full and equal access to  
 17 the facilities, goods, and services offered to the public and made available to the  
 18 public on Defendant's website. Due to the widespread access barriers Plaintiff and  
 19 Class Members encountered on Defendant's website, Plaintiff and Class Members  
 20 have been deterred, on a regular basis, from accessing Defendant's website.  
 21 Similarly, the access barriers Plaintiff has encountered on Defendant's website has  
 22 deterred Plaintiff and Class Members from visiting Defendant's brick-and-mortar  
 23 stores.

24 27. While attempting to navigate Defendant's website, Plaintiff and Class  
 25 Members encountered multiple accessibility barriers for blind or visually impaired  
 26 people that include, but are not limited to, the following:

27 a. Lack of Alternative Text ("alt-text"), or a text equivalent. Alt-text  
 28 is invisible code embedded beneath a graphic or image on a website

1 that is read to a user by a screen-reader. For graphics or images to  
2 be fully accessible for screen-reader users, it requires that alt-text  
3 be coded with each graphic or image so that screen reading software  
4 can speak the alt-text to describe the graphic or image where a  
5 sighted user would just see the graphic or image. Alt-text does not  
6 change the visual presentation, but instead a text box shows when  
7 the cursor hovers over the graphic or image. The lack of alt-text on  
8 graphics and images prevents screen-readers from accurately  
9 vocalizing a description of the image or graphic. As a result,  
10 Plaintiff and Class Members who are blind and visually impaired  
11 customers are unable to access high-quality, durable TUMI travel  
12 pieces and accessories, available to order online or at store  
13 locations. Consumers are additionally unable to access information  
14 regarding access information regarding store locations, best sellers,  
15 special collections, new arrivals, personalization shop, featured  
16 items, philanthropy opportunities, product information and  
17 warranty, sale items, gift ideas, gift cards, career opportunities,  
18 shipping and returns, payment methods, service and repairs,  
19 replacement parts, email subscriptions, corporate gifts and  
20 incentives, order tracking, airline carry-on guide, setting your  
21 TUMI lock, and Defendant's social media pages, or complete any  
22 purchases;

23 b. Empty Links that contain No Text causing the function or purpose  
24 of the link to not be presented to the user. This can introduce  
25 confusion for keyboard and screen-reader users;

26 c. Redundant Links where adjacent links go to the same URL address  
27 which results in additional navigation and repetition for keyboard  
28 and screen-reader users; and

- d. Linked Images missing alt-text, which causes problems if an image within a link does not contain any descriptive text and that image does not have alt-text. A screen reader then has no content to present the user as to the function of the link, including information or links for and contained in PDFs.

28. Recently in 2022, Plaintiff attempted to do business with Defendant on Defendant's website and Plaintiff encountered barriers to access on Defendant's website.

29. Despite past and recent attempts to do business with Defendant on its website, the numerous access barriers contained on the website and encountered by Plaintiff, have denied Plaintiff full and equal access to Defendant's website. Plaintiff and Class Members, as a result of the barriers on Defendant's website, continue to be deterred on a regular basis from accessing Defendant's website. Likewise, based on the numerous access barriers Plaintiff and Class Members have been deterred and impeded from the full and equal enjoyment of goods and services offered in Defendant's stores and from making purchases at the physical locations.

## **DEFENDANT MUST REMOVE BARRIERS TO ITS WEBSITE**

30. Due to the inaccessibility of the Defendant's website, blind and visually impaired customers such as Plaintiff, who need a screen-reader, cannot fully and equally use, or enjoy the facilities and services Defendant offers to the public on its website. The access barriers Plaintiff encountered have caused a denial of Plaintiff's full and equal access in the past, and now deter Plaintiff on a regular basis from accessing the website.

31. These access barriers on the Defendant's website have deterred the Plaintiff from visiting Defendant's physical locations and enjoying it equal to sighted individuals because Plaintiff was unable to find the location and hours of operation of Defendant's stores on its website. This continues to prevent Plaintiff from visiting the locations to view and purchase goods and/or services. Plaintiff

1 and Class Members intend to visit Defendant's locations in the near future if  
 2 Plaintiff and Class Members could access Defendant's website.

3 32. If the website were equally accessible to all, Plaintiff and Class  
 4 Members could independently navigate the website and complete a desired  
 5 transaction, as sighted individuals do.

6 33. Plaintiff, through Plaintiff's attempts to use the website, has actual  
 7 knowledge of the access barriers that makes these services inaccessible and  
 8 independently unusable by blind and visually impaired people.

9 34. Because simple compliance with WCAG 2.1 would provide Plaintiff  
 10 and Class Members who are visually impaired consumers with equal access to the  
 11 website, Plaintiff and Class Members allege that Defendant engaged in acts of  
 12 intentional discrimination, including, but not limited to, the following policies or  
 13 practices: constructing and maintaining a website that is inaccessible to visually  
 14 impaired individuals, including Plaintiff and Class Members; failing to construct  
 15 and maintain a website that is sufficiently intuitive so as to be equally accessible to  
 16 visually impaired individuals, including Plaintiff and Class Members; and failing to  
 17 take actions to correct these access barriers in the face of substantial harm and  
 18 discrimination to blind and visually impaired consumers, such as Plaintiff and Class  
 19 Members, as a member of a protected class.

20 35. The Defendant uses standards, criteria, or methods of administration  
 21 that have the effect of discriminating or perpetuating the discrimination against  
 22 others, as alleged herein.

23 36. The ADA expressly contemplates the injunctive relief that Plaintiff  
 24 seeks in this action. In relevant part, the ADA requires:

25 In the case of violations of ... this title, injunctive relief shall  
 26 include an order to alter facilities to make such facilities readily  
 27 accessible to and usable by individuals with disabilities ....  
 28 Where appropriate, injunctive relief shall also include requiring  
 the ... modification of a policy .... 42 U.S.C. § 12188(a)(2).

1       37. Because Defendant's website has never been equally accessible, and  
2 because Defendant lacks a corporate policy that is reasonably calculated to cause  
3 the Defendant's website to become and remain accessible, Plaintiff invokes 42  
4 U.S.C. § 12188(a)(2) and seeks a permanent injunction requiring Defendant to  
5 retain a qualified consultant acceptable to Plaintiff to assist Defendant to comply  
6 with WCAG 2.1 guidelines for Defendant's website. The website must be  
7 accessible for individuals with disabilities who use desktop computers, laptops,  
8 tablets, and smartphones. Plaintiff and Class Members seek that this permanent  
9 injunction require Defendant to cooperate with the agreed-upon consultant to: train  
10 Defendant's employees and agents who develop the website on accessibility  
11 compliance under the WCAG 2.1 guidelines; regularly check the accessibility of  
12 the website under the WCAG 2.1 guidelines; regularly test user accessibility by  
13 blind or vision-impaired persons to ensure that the Defendant's website complies  
14 under the WCAG 2.1 guidelines; and develop an accessibility policy that is clearly  
15 disclosed on the Defendant's website, with contact information for users to report  
16 accessibility-related problems and require that any third-party vendors who  
17 participate on the Defendant's website to be fully accessible to the disabled by  
18 conforming with WCAG 2.1.

19       38. If Defendant's website were accessible, Plaintiff and Class Members  
20 could independently access information about the address and hours of the stores,  
21 goods offered, and services available.

22       39. Although Defendant may currently have centralized policies regarding  
23 maintaining and operating Defendant's website, Defendant lacks a plan and policy  
24 reasonably calculated to make Defendant's website fully and equally accessible to,  
25 and independently usable by, blind and other visually impaired consumers.

26       40. Defendant has, upon information and belief, invested substantial sums  
27 in developing and maintaining Defendant's website, and Defendant has generated  
28 significant revenue from Defendant's website. These amounts are far greater than

1 the associated cost of making Defendant's website equally accessible to visually  
 2 impaired customers. Plaintiff has also visited prior iterations of the Defendant's  
 3 website, <https://www.tumi.com/>, and also encountered such barriers.

4 41. Without injunctive relief, Plaintiff and Class Members will continue to  
 5 be unable to independently use Defendant's website, violating their rights.

## 6 CLASS ACTION ALLEGATIONS

7 42. Plaintiff, on behalf of herself and all others similarly situated, seeks to  
 8 certify a Nationwide Class under Fed. R. Civ. P. 23(a) and 23(b)(2), the Nationwide  
 9 Class is initially defined as follows:

10 all legally blind individuals who have attempted to access  
 11 Defendant's website by the use of a screen reading software  
 12 during the applicable limitations period up to and including final  
 judgment in this action.

13 43. The California Class is initially defined as follows:

14 all legally blind individuals in the State of California who have  
 15 attempted to access Defendant's website by the use of a screen  
 16 reading software during the applicable limitations period up to  
 and including final judgment in this action.

17 44. Excluded from each of the above Classes is Defendant, including any  
 18 entity in which Defendant has a controlling interest, is a parent or subsidiary, or  
 19 which is controlled by Defendant, as well as the officers, directors, affiliates, legal  
 20 representatives, heirs, predecessors, successors, and assigns of Defendant. Also  
 21 excluded are the judge and court personnel in this case and any members of their  
 22 immediate families. Plaintiff reserves the right to amend the Class definitions if  
 23 discovery and further investigation reveal that the Classes should be expanded or  
 24 otherwise modified.

25 45. *Numerosity*: Fed. R. Civ. P. 23(a)(1). This action has been brought  
 26 and may properly be maintained as a class action against Defendant under Rules  
 27 23(b)(1)(B) and 23(b)(3) of the Federal Rules of Civil Procedure. While the exact  
 28 number and identities of other Class Members are unknown to Plaintiff at this time,

1 Plaintiff is informed and believes that there are hundreds of thousands of Members  
 2 in the Class. Based on the number of customers who have visited Defendant's  
 3 California stores, it is estimated that the Class is composed of more than 10,000  
 4 persons. Furthermore, even if subclasses need to be created for these consumers,  
 5 it is estimated that each subclass would have thousands of Members. The Members  
 6 of the Class are so numerous that joinder of all Members is impracticable and the  
 7 disposition of their claims in a class action rather than in individual actions will  
 8 benefit the parties and the courts.

9       46. *Typicality*: Plaintiff's and Class Members' claims are typical of the  
 10 claims of the Members of the Class as all Members of the Class are similarly  
 11 affected by Defendant's wrongful conduct, as detailed herein.

12       47. *Adequacy*: Plaintiff will fairly and adequately protect the interests of  
 13 the Members of the Class in that they have no interests antagonistic to those of the  
 14 other Members of the Class. Plaintiff has retained experienced and competent  
 15 counsel.

16       48. *Superiority*: A class action is superior to other available methods for  
 17 the fair and efficient adjudication of this controversy. Since the damages sustained  
 18 by individual Class Members may be relatively small, the expense and burden of  
 19 individual litigation makes it impracticable for the Members of the Class to  
 20 individually seek redress for the wrongful conduct alleged herein. Furthermore, the  
 21 adjudication of this controversy through a class action will avoid the potentially  
 22 inconsistent and conflicting adjudications of the claims asserted herein. There will  
 23 be no difficulty in the management of this action as a class action. If Class treatment  
 24 of these claims were not available, Defendant would likely unfairly receive  
 25 thousands of dollars or more in improper revenue.

26       49. *Common Questions Predominate*: Common questions of law and fact  
 27 exist as to all Members of the Class and predominate over any questions solely  
 28 affecting individual Members of the Class. Among the common questions of law

1 and fact applicable to the Class are:

- 2 i. Whether Defendant's website, <https://www.tumi.com/>, is  
3 inaccessible to the visually impaired who use screen reading  
4 software to access internet websites;
- 5 ii. Whether Plaintiff and Class Members have been unable to  
6 access <https://www.tumi.com/> through the use of screen reading  
7 software;
- 8 iii. Whether the deficiencies in Defendant's website violate the  
9 Americans with Disabilities Act of 1990, 42 U.S.C. § 12181 *et*  
10 *seq.*;
- 11 iv. Whether the deficiencies in Defendant's website violate the  
12 California Unruh Civil Rights Act, California Civil Code § 51  
13 *et seq.*;
- 14 v. Whether, and to what extent, injunctive relief should be imposed  
15 on Defendant to make <https://www.tumi.com/> readily accessible  
16 to and usable by visually impaired individuals;
- 17 vi. Whether Plaintiff and Class Members are entitled to recover  
18 statutory damages with respect to Defendant's wrongful  
19 conduct; and
- 20 vii. Whether further legal and/or equitable relief should be granted  
21 by the Court in this action.

22 50. The class is readily definable, and prosecution of this action as a Class  
23 action will reduce the possibility of repetitious litigation. Plaintiff knows of no  
24 difficulty which will be encountered in the management of this litigation which  
25 would preclude their maintenance of this matter as a Class action.

26 51. The prerequisites to maintaining a class action for injunctive relief or  
27 equitable relief pursuant to Rule 23(b)(2) are met, as Defendant has acted or refused  
28 to act on grounds generally applicable to the Class, thereby making appropriate final

injunctive or equitable relief with respect to the Class as a whole.

52. The prerequisites to maintaining a class action for injunctive relief or equitable relief pursuant to Rule 23(b)(3) are met, as questions of law or fact common to the Class predominate over any questions affecting only individual Members; and a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

53. The prosecution of separate actions by Members of the Class would create a risk of establishing inconsistent rulings and/or incompatible standards of conduct for Defendant. Additionally, individual actions may be dispositive of the interests of all Members of the Class, although certain Class Members are not parties to such actions.

54. Defendant's conduct is generally applicable to the Class as a whole and Plaintiff seeks, *inter alia*, equitable remedies with respect to the Class as a whole. As such, Defendant's systematic policies and practices make declaratory relief with respect to the Class as a whole appropriate.

## COUNT I

## **VIOLATIONS OF THE AMERICANS WITH DISABILITIES ACT, 42**

U.S.C. § 12181 ET SEQ.

(On Behalf of Plaintiff, the Nationwide Class, and the California Class)

55. Plaintiff alleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 54, inclusive, of this Complaint as if set forth fully herein.

56. Section 302(a) of Title III of the ADA, 42 U.S.C. § 12181 *et seq.*, provides: “No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.” 42 U.S.C. § 12182(a).

1       57. Under Section 302(b)(2) of Title III of the ADA, unlawful  
 2 discrimination also includes, among other things: “a failure to make reasonable  
 3 modifications in policies, practices, or procedures, when such modifications are  
 4 necessary to afford such goods, services, facilities, privileges, advantages, or  
 5 accommodations to individuals with disabilities, unless the entity can demonstrate  
 6 that making such modifications would fundamentally alter the nature of such goods,  
 7 services, facilities, privileges, advantages or accommodations;” and “a failure to  
 8 take such steps as may be necessary to ensure that no individual with a disability is  
 9 excluded, denied services, segregated or otherwise treated differently than other  
 10 individuals because of the absence of auxiliary aids and services, unless the entity  
 11 can demonstrate that taking such steps would fundamentally alter the nature of the  
 12 good, service, facility, privilege, advantage, or accommodation being offered or  
 13 would result in an undue burden.” 42 U.S.C. § 12182(b)(2)(A)(ii)-(iii). “A public  
 14 accommodation shall take those steps that may be necessary to ensure that no  
 15 individual with a disability is excluded, denied services, segregated or otherwise  
 16 treated differently than other individuals because of the absence of auxiliary aids  
 17 and services, unless the public accommodation can demonstrate that taking those  
 18 steps would fundamentally alter the nature of the goods, services, facilities,  
 19 privileges, advantages, or accommodations being offered or would result in an  
 20 undue burden, i.e., significant difficulty or expense.” 28 C.F.R. § 36.303(a). In  
 21 order to be effective, auxiliary aids and services must be provided in accessible  
 22 formats, in a timely manner, and in such a way as to protect the privacy and  
 23 independence of the individual with a disability.” 28 C.F.R. § 36.303(c)(1)(ii).

24       58. Defendant’s stores are “public accommodations” within the meaning  
 25 of 42 U.S.C. § 12181 *et seq.* Defendant generates millions of dollars in revenue  
 26 from the sale of its goods and services, privileges, advantages, and accommodations  
 27 in California through its locations and related services, privileges, advantages, and  
 28 accommodations, and its Website, <https://www.tumi.com/>, is a service, privilege,

1 advantage, and accommodation provided by Defendant that is inaccessible to  
2 customers who are visually impaired like Plaintiff. This inaccessibility denies  
3 visually impaired customers full and equal enjoyment of and access to the facilities  
4 and services, privileges, advantages, and accommodations that Defendant made  
5 available to the non-disabled public. Defendant is violating the Americans with  
6 Disabilities Act, 42 U.S.C. § 12181 *et seq.*, in that Defendant denies visually  
7 impaired customers the services, privileges, advantages, and accommodations  
8 provided by <https://www.tumi.com/>. These violations are ongoing.

9       59. Defendant's actions constitute intentional discrimination against  
10 Plaintiff and Class Members on the basis of a disability in violation of the  
11 Americans with Disabilities Act, 42 U.S.C. § 12181 *et seq.* in that: Defendant has  
12 constructed a website that is inaccessible to Plaintiff and Class Members; maintains  
13 the website in this inaccessible form; and has failed to take adequate actions to  
14 correct these barriers even after being notified of the discrimination that such  
15 barriers cause.

16       60. Pursuant to 42 U.S.C. § 12188 and the remedies, procedures, and rights  
17 set forth and incorporated therein, Plaintiff requests relief as set forth below.

## COUNT II

**VIOLATIONS OF THE UNRUH CIVIL RIGHTS ACT, CALIFORNIA  
CIVIL CODE § 51 *ET SEQ.***

(On Behalf of Plaintiff and the California Class)

22       61. Plaintiff alleges and incorporates herein by reference each and every  
23 allegation contained in paragraphs 1 through 60, inclusive, of this Complaint as if  
24 set forth fully herein.

25        62. Defendant's stores are "business establishments" within the meaning  
26 of the California Civil Code § 51 *et seq.* Defendant generates millions of dollars in  
27 revenue from the sale of its goods and services in California through its stores and  
28 related services, and <https://www.tumi.com/> is a service provided by Defendant that

1 is inaccessible to customers who are visually impaired like Plaintiff and Class  
 2 Members. This inaccessibility denies visually impaired customers full and equal  
 3 access to Defendant's facilities and services that Defendant makes available to the  
 4 non-disabled public. Defendant is violating the Unruh Civil Rights Act, California  
 5 Civil Code § 51 *et seq.*, in that Defendant is denying visually impaired customers  
 6 the services provided by <https://www.tumi.com/>. These violations are ongoing.

7       63. Defendant's actions constitute intentional discrimination against  
 8 Plaintiff and Class Members on the basis of a disability in violation of the Unruh  
 9 Civil Rights Act, Cal. Civil Code § 51 *et seq.* in that: Defendant has constructed a  
 10 website that is inaccessible to Plaintiff and Class Members; maintains the website  
 11 in this inaccessible form; and has failed to take adequate actions to correct these  
 12 barriers even after being notified of the discrimination that such barriers cause.

13       64. Defendant is also violating the Unruh Civil Rights Act, California  
 14 Civil Code § 51 *et seq.* in that the conduct alleged herein likewise constitutes a  
 15 violation of various provisions of the ADA, 42 U.S.C. § 12101 *et seq.* Section 51(f)  
 16 of the California Civil Code provides that a violation of the right of any individual  
 17 under the ADA shall also constitute a violation of the Unruh Civil Rights Act.

18       65. The actions of Defendant were and are in violation of the Unruh Civil  
 19 Rights Act, California Civil Code § 51 *et seq.*, and, therefore, Plaintiff and Class  
 20 Members are entitled to injunctive relief remedying the discrimination.

21       66. Plaintiff and Class Members are also entitled to statutory minimum  
 22 damages pursuant to California Civil Code § 52 for each and every offense.

23       67. Plaintiff and Class Members are also entitled to reasonable attorneys'  
 24 fees and costs.

25       68. Plaintiff and Class Members are also entitled to a preliminary and  
 26 permanent injunction enjoining Defendant from violating the Unruh Civil Rights  
 27 Act, California Civil Code § 51 *et seq.*, and requiring Defendant to take the steps  
 28 necessary to make <https://www.tumi.com/> readily accessible to and usable by

1 visually impaired individuals.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiff, individually and on behalf of all Class Members,  
4 respectfully requests that the Court enter judgment in her favor and against  
5 Defendant as follows:

6 A. For an Order certifying the Nationwide Class and California Class as  
7 defined herein and appointing Plaintiff and her Counsel to represent  
8 the Nationwide Class and the California Class;

9 B. A preliminary and permanent injunction pursuant to 42 U.S.C. §  
10 12188(a)(1) and (2) and section 52.1 of the California Civil Code  
11 enjoining Defendant from violating the Unruh Civil Rights Act and  
12 ADA and requiring Defendant to take the steps necessary to make  
13 <https://www.tumi.com/> readily accessible to and usable by visually  
14 impaired individuals;

15 C. An award of statutory minimum damages of \$4,000 per offense per  
16 person pursuant to section 52(a) of the California Civil Code;

17 D. For attorneys' fees and expenses pursuant to California Civil Code  
18 §§ 52(a), 52.1(h), and 42 U.S.C. § 12205;

19 E. For pre-judgment interest to the extent permitted by law;

20 F. For costs of suit; and

21 G. For such other and further relief as the Court deems just and proper.

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## DEMAND FOR JURY TRIAL

Plaintiff, on behalf of herself and all others similarly situated, hereby demands a jury trial for all claims so triable.

Dated: April 8, 2022

Respectfully Submitted,

/s/ *Thiago M. Coelho*

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Thiago M. Coelho, Esq.

Binyamin I. Manoucheri

## WILSHIRE LAW FIRM

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Proposed Class*

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